

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 15-7638

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANIEL JUNIOR MCNEIL,

Defendant - Appellant.

Appeal from the United States District Court for the Middle District of North Carolina, at Greensboro. William L. Osteen, Jr., Chief District Judge. (1:10-cr-00406-WO-1; 1:13-cv-00718-WO-LPA)

Submitted: March 29, 2016

Decided: March 31, 2016

Before GREGORY and DUNCAN, Circuit Judges, and DAVIS, Senior Circuit Judge.

Remanded by unpublished per curiam opinion.

Daniel Junior McNeil, Appellant Pro Se. Lisa Blue Boggs, Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Daniel Junior McNeil, a federal prisoner, seeks to appeal the district court's order adopting the magistrate judge's recommendation and denying relief on his 28 U.S.C. § 2255 (2012) motion. Parties in a civil action in which the United States is a party have 60 days following entry of judgment in which to file a notice of appeal. Fed. R. App. P. 4(a)(1)(B). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." Bowles v. Russell, 551 U.S. 205, 214 (2007).

Because McNeil is incarcerated, the notice of appeal is considered filed on the date it was properly delivered to prison officials for mailing to the court. Fed. R. App. P. 4(c)(1); Houston v. Lack, 487 U.S. 266, 276 (1988). The record does not conclusively reveal when McNeil delivered the notice of appeal to prison officials for mailing. Accordingly, we remand the case for the limited purpose of allowing the district court to obtain this information from the parties and to determine whether the filing was timely under Fed. R. App. P. 4(c)(1) and Houston v. Lack. The record, as supplemented, will then be returned to this court for further consideration.

REMANDED